



# California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams  
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger  
Governor

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Rod Oshita  
Soledad Canyon A.R.I. L.L.C.  
1601 North Sepulveda Boulevard, Suite 401  
Manhattan Beach, CA 90266

## **WATER QUALITY CERTIFICATION FOR PROPOSED PENLON PROPERTY PROJECT (Corps' Project No. 2006-00362-KW), UNNAMED WATERBODY TRIBUTARY TO SANTA CLARA RIVER, SANTA CLARITA, LOS ANGELES COUNTY (File No. 05-217)**

Dear Mr. Oshita:

Regional Board staff has reviewed your request on behalf of Soledad Canyon A.R.I.L.L.C. (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on June 26, 2006.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Dana Cole, Section 401 Program, at (213) 576-5733.

\_\_\_\_\_[Original signed by]\_\_\_\_\_  
Jonathan S. Bishop  
Executive Officer

\_\_\_\_\_  
September 20, 2006  
Date

**California Environmental Protection Agency**



*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

## DISTRIBUTION LIST

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4949 View Ridge Avenue  
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US EPA, Region 9  
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Ken Berg  
U.S. Fish and Wildlife Service  
6010 Hidden Valley Road  
Carlsbad, CA 92009

# ATTACHMENT A

## Project Information File No. 05-217

1. Applicant: Rod Oshita  
Soledad Canyon A.R.I. L.L.C.  
1601 North Sepulveda Boulevard, Suite 401  
Manhattan Beach, CA 90266  
  
Phone: (310) 939-7102      Fax: (310) 939-7104
  
2. Applicant's Agent: Ty Garrison  
Land Design Consultants Incorporation  
199 South Los Robles, Suite 250  
Pasadena, CA 91101  
  
Phone: (626) 578-7000      Fax: (626) 578-7373
  
3. Project Name: Penlon Property Project
  
4. Project Location: Santa Clarita, Los Angeles County  
  
Longitude: 118° 28' 58"; Latitude: 34° 25' 05"  
Longitude: 118° 28' 58"; Latitude: 34° 24' 51"  
Longitude: 118° 28' 48"; Latitude: 34° 24' 51"  
Longitude: 118° 28' 47"; Latitude: 34° 24' 55"  
Longitude: 118° 28' 59"; Latitude: 34° 25' 00"  
Longitude: 118° 28' 56"; Latitude: 34° 24' 53"  
Longitude: 118° 28' 44"; Latitude: 34° 24' 52"  
Longitude: 118° 28' 53"; Latitude: 34° 25' 00"
  
5. Type of Project: Preparation for residential construction
  
6. Project Purpose: The proposed project will establish a level foundation for a 150 residential unit development on a 19.53 acre site in Santa Clarita California.
  
7. Project Description: The project site is located in Santa Clarita, south of the Santa Clara River, Soledad Canyon Drive and Southern Pacific railroad tracks; north of Terri Drive and west of Whites Canyon Road. The

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residential development, which will be permitted and completed in later projects, will consist of 150 homes, a large recreational area, two smaller recreational lots, landscaping, roadways and utilities.

This project will fill parts of two, small, ephemeral streams which drain to the property from an adjacent housing development and are tributary to the Santa Clara River. In addition, this project will include the expansion/creation of a deceleration lane to the project property. The construction of the deceleration lane will also fill a small part of a wetland area. All fill, for the housing site and the deceleration lane, will be onsite soils.

The impacts to waters will be mitigated with habitat creation onsite, in both the housing area and next to the deceleration lane and a lesser amount of habitat creation offsite. The wetland areas to be created next to the deceleration lane will be supported by waters which will be directed from the housing areas and along the road into the created wetland by a new culvert. In addition to mitigation, 5 acres of land adjacent to and in the Santa Clara River bed will be acquired and preserved.

The proposed project was approved by the City of Santa Clarita. A change of zoning and land use designation for the site will allow clustered development and will conform with similar land uses adjacent to the property.

- |  |  |
|--|--|
| 8. Federal Agency/Permit:                                  | U.S. Army Corps of Engineers<br>Individual Nationwide Permit No. 200600362-KW                    |
| 9. Other Required<br>Regulatory Approvals:                 | California Department of Fish and Game<br>Streambed Alteration Agreement (No. 1600-2005-0741-R5) |
| 10. California<br>Environmental Quality<br>Act Compliance: | The City Santa Clarita approved a Mitigated Negative Declaration on April 12, 2005.              |
| 11. Receiving Water:                                       | Unnamed Water Body Tributary to Santa Clara River (Hydrologic Unit No. 403.51)                   |

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12. Designated Beneficial Uses: MUN\*, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, WILD, RARE, WET
- \*Conditional beneficial use
13. Impacted Waters of the United States: Federal jurisdictional wetlands: 0.178 permanent acres and 0.041 temporary acres.
- Non-wetland waters (streambed): 0.434 permanent acres.
- Non-wetland waters (unvegetated streambed): 0.271 permanent acres and 0.009 temporary acres.
14. Dredge Volume: None
15. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years. However, the City of Santa Clarita has approved the residential development of the site.
16. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- To reduce the impact to the San Emigdio blue butterfly due to removal of habitat, the dominant plant preferred by the butterfly, the flourwing saltbush will be planted in the restoration area.
  - Designated areas will be set aside for equipment washing and small batch mixing of concrete or other chemicals. The set aside areas will be lined with an impermeable liner and all washings or residue will be collected and properly disposed of following construction.
  - The first 0.75-inch of rainfall on the site must be captured and treated prior to release into the Santa Clara River natural watershed.
  - Lot runoff to be infiltrated from the graded pad areas through onsite pervious soils.

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- Direct rooftop runoff to the yards or vegetated areas.
- Slope protection-convey runoff from tops of slopes and stabilize disturbed slopes with landscaping per County standards.
- Vegetate slopes with native, drought tolerant vegetation to minimize erosion.
- Provide one-foot wide by 1-foot deep gravel strip between back of driveway and sidewalk.
- Use permeable materials for private sidewalks, driveway, and parking lots.
- Runoff from streets shall be collected into catch basins with pipe drains to the proposed deflection separator unit prior to outlet into existing system.
- Desilting Basin- Infiltrate runoff from northern offsite lands through basin bottom

17. Proposed  
Compensatory  
Mitigation:

The Applicant has proposed to create 0.575 acres of wetland habitat, to create 1.457 acres of vegetated streambed, and to create 0.551 acres of unvegetated streambed. See Table 1 in Item 23, Attachment B for a detailed accounting. In addition to mitigation, 5 acres of land adjacent to and in the Santa Clara River bed will be acquired and preserved. A Mitigation and Monitoring Plan for Penlon Property - Soledad Canyon ARI LLC was completed in 2005.

18. Required  
Compensatory  
Mitigation:

The proposed compensatory mitigation in Item No. 17 above shall be required, and additionally as specified in Item No. 23 of Attachment B.

*See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.*

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### Conditions of Certification File No. 05-217

#### STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

#### ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)* and all subsequent amendments.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 15, are incorporated as additional conditions herein.

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### **Conditions of Certification File No. 05-217**

5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
15. If rain is predicted after operations have begun, grading activities must cease immediately and the site must be stabilized to prevent impacts to water quality, and minimize erosion and runoff from the site.
16. Sediment removal at each phase shall not go beyond the extent as defined in the application packet.
17. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
18. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities where clearing involves areas to be partially cleared (i.e. some vegetation is to remain in the same reach or in an adjacent reach). The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.
19. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the

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Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.

20. All project and/or construction activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
21. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:
  - pH
  - temperature
  - dissolved oxygen
  - turbidity
  - total suspended solids(TSS)
  - Downstream TSS shall be maintained at ambient levels
  - Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

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22. The Applicant shall restore all areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
23. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporal and permanent loss of waters of the United States. Table I below lists the impact by waterbody type, permanent and temporary impact, impact ratio requirement, and onsite and offsite mitigation. Actual mitigation must be greater than or equal to mitigation required.

**TABLE I**

<b>Jurisdictional Wetland (in Acres)</b>					
Impact		Mitigation Ratio	Mitigation Required	Mitigation Location	
Permanent	0.178	3:1	0.534	Created Onsite	0.575
Temporary	0.041	1:1	0.041	Offsite	0
<b>Total</b>			<b>0.575</b>		<b>0.575</b>
<b>Vegetated Streambed (in Acres)</b>					
Impact		Mitigation Ratio	Mitigation Required	Mitigation Location	
Permanent	0.434	3:1	1.302	Created Onsite	1.300
Temporary	0	1:1	0	Restored Offsite	0.157
<b>Total</b>			<b>1.302</b>		<b>1.457</b>
<b>Unvegetated Streambed (in Acres)</b>					
Impact		Mitigation Ratio	Mitigation Required	Mitigation Location	
Permanent	0.271	2:1	0.542	Created Onsite	0.170
Temporary	0.009	1:1	0.009	Restored Offsite	0.381
<b>Total</b>			<b>0.551</b>		<b>0.551</b>

24. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
25. The project shall be in accordance with the Mitigation and Monitoring Plan for Penlon Property – Soledad Canyon ARI LLC received by this Regional Board on November 14, 2005.

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26. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1<sup>st</sup>** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved. The report shall describe in detail all of the project/construction activities performed during the previous year and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
- (a) Color photo documentation of the pre- and post-project and mitigation site conditions;
  - (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
  - (c) The overall status of project including a detailed schedule of work;
  - (d) Copies of all permits revised as required in Additional Condition 1;
  - (e) Water quality monitoring results for each reach (as required) compiled in an easy to interpret format;
  - (f) A certified Statement of “no net loss” of wetlands associated with this project;
  - (g) Discussion of any monitoring activities and exotic plant control efforts; and
  - (h) A certified Statement from the Applicant or his/her representative that all conditions of this Certification have been met.
27. Prior to any subsequent maintenance activities within the subject drainages/basin, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the drainage’s/basin’s existing condition/capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
28. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
  - (b) For a partnership, by a general partner.

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- (c) For a sole proprietorship, by the proprietor.
  - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
29. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

“I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_ (Signature)  
\_\_\_\_\_ (Title)”

- 30. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **05-217**. Submittals shall be sent to the attention of the 401 Certification Unit.
- 31. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
- 32. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
- 33. Coverage under this Certification may be transferred to the extent the underlying federal permit may legally be transferred and further provided that the Applicant notifies the Executive Officer at least 30 days before the proposed transfer date, and the notice includes a written agreement between the existing and new Applicants containing a specific date of coverage, responsibility for compliance with this Certification, and liability between them.
- 34. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant

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becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

35. *Enforcement:*

- (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

36. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.